

- MEMORANDUM -

File: 164-28

Grants, New Mexico  
July 16, 1954

Mr. R. G. Rydin - Chicago

Attached is Application for Registration as required by the Severance Tax Division of the New Mexico Bureau of Revenue, which I will thank you to sign and return to me in order that I may forward it to the Severance Tax Division.

Mr. C. H. Anderson has requested Mr. Logan, Tax Commissioner, Amarillo, Texas, to handle the filing of reports and the payment of taxes required to be paid on the Haystack property. I have obtained Mr. Iden's opinion as to the allowable deductions for severance tax purposes. In addition, I have agreed to supply Mr. Logan with the value of the products produced by us, in order that he may pay the severance taxes.

The New Mexico Severance Tax amounts to one-eighth of one percent on the receipts obtained on all production.

Prior to October 1, 1953, the Haystack Company was not considered subject to the severance tax but, beginning with that date, we are obliged to file monthly reports, indicating the value of ore produced, with allowance made for loading and delivery to the mill.

T. O. Evans

Encl.

STATE OF NEW MEXICO  
BUREAU OF REVENUE SEVERANCE TAX DIVISION  
Send No Money Herewith  
APPLICATION FOR REGISTRATION

DO NOT WRITE IN THIS SPACE

DO NOT WRITE IN THIS SPACE

This Application is Required of All Persons, Firms, Companies, Corporations, and Receivers, Etc., engaged in PRODUCING, PURCHASING, STORAGE OF, TRANSPORTATION OF (or any combination of such operations) of certain natural resource products within the State of New Mexico as particularly set out in Committee Substitute for Senate Bill No. 49, 13th Legislative Session, Approved Mar. 15, 1937. As Amended by Committee Substitute for Senate Bill 190, passed by the 20th Legislature.

TO THE COMMISSIONER OF REVENUE:

I, or We, hereby make application for permit to sever from the soil of the State of New Mexico, or deal in such products, under rules and regulations promulgated by the Commissioner of Revenue of the State of New Mexico, in conformity with the provisions of Committee Substitute for Senate Bill Number 49, 13th Legislative Session, approved March 15, 1937. As Amended by Committee Substitute for Senate Bill 190, passed in the 20th Legislature.

NAME Haystack Mountain Development Company  
(Give Name of Business/Style Under Which Same Is Conducted.)

Location of Operation Grants Mining District, McKinley County, New Mexico  
County or Counties; Oil/Gas Field or Fields, Mining District.

Private holdings  
Timber Area, Nat'l Forest, State Land, Private Holding, Etc.

Mail Address Post Office Box 1203 Prewitt, New Mexico  
Street or P. O. Box No. Postoffice State

Check Products Severed, or Severance Contemplated, or Acquired by First Purchaser, by Purchase or Otherwise, the Storage/Transportation thereof:

OIL GAS COAL GOLD LEAD TIMBER ZINC SILVER  
COPPER POTASH MOLYBDENUM MANGANESE FLUORSPAR URANIUM ~~XX~~ PUMICE

Check Nature of Business:

Producer ~~XX~~, Purchaser, Storer, Transporter

Indicate Type of Ownership:

Individual, Partnership, Company, Corporation ~~XX~~, Other

Give name and address of owner, partners or 3 principal officers of corporation.

Name F. G. Gurley, President Address 80 E. Jackson Blvd. Chicago 4, Ill

Name R. G. Rydin, Vice President Address 80 E. Jackson Blvd. " "

Name G. A. Menninger, Secy-Treas. Address 9th and Jackson Sts. Topeka, Kans

The books and records of this business are kept and may be examined at Company Office

Prewitt  
City

New Mexico  
State

This Application shall be signed by the owner if a Natural Person; in case of Firm, Association or Partnership, by a Member or Partner thereof; in case of a Corporation, by an Executive Officer thereof.

I, We, hereby certify that the statements made herein are true; that all taxes due the State of New Mexico by reason of the Severance Tax Law will be paid.

SIGNED Haystack Mountain Development Co.

By Signed R. G. Rydin  
Vice President

Date July 20, 1954

164-28

Chicago, July 8, 1954

Mr. R. E. Logan, Amarillo

Enclosed is copy of letter from C. O. Clark dated June 29, 1954 regarding the liability of Haystack Mountain Development Company for the payment of a severance tax and raising the question as to whether this department will handle severance tax matters.

In your letter of June 4, 1954, you stated "prior to 1954, the producers of uranium have been exempt from tax, but beginning with October 1, 1953 the real and personal property and the value of the mineral production will be assessed." It is my understanding that for Ad valorem assessment purposes, mineral production is taken into consideration for the purpose of valuing the mineral reserves and is a different type of tax than a severance tax. A severance tax is an excise tax paid for the privilege of extracting natural resources and is not an Ad valorem tax based on the value of unmined minerals.

I think in this particular situation it is a good idea for the left hand to know what the right hand is doing and therefore, I suggest that if Haystack is subject to the severance tax, that you handle the filing of reports and the payment of the taxes with the proper authority.

C. H. Anderson

Copy to

Mr. W. G. Hunt

Mr. T. A. Blair

Mr. T. V. Evans ✓

Mr. C. O. Clark

P. S. I am assuming that you will consult Mr. E. C. Iden with respect to the legal aspect and determine whether Anaconda has reported for severance tax purposes.

C. H. A.

# The Atchison, Topeka and Santa Fe Railway Company

EAGLE IDEN,  
Solicitor for New Mexico  
BRYAN G. JOHNSON,  
Attorney for New Mexico

## NEW MEXICO LAW DEPARTMENT

Albuquerque, New Mexico,

July 7, 1954

File 17-34

Mr. T. O. Evans  
Haystack Mountain Development Company  
Grants, New Mexico

Dear Sir:

Replying to your inquiry of July 1:

I am returning the form furnished by the Bureau of Revenue for making severance tax report.

Section 76-1302 of the 1951 Cumulative Supplement to our New Mexico Statutes defines "gross value". I am quoting this section in full for your information:

"TAX ON GROSS VALUE AT SEVERANCE-"GROSS VALUE" DEFINED.-RATES.- Taxes as levied under this act shall be predicated upon a gross value, as herein-after defined, of such products severed and saved from the soil of this state and shall be paid at the rates provided for hereinafter in this section in the schedule of tax rates upon all such products as of the time when and the place where the same has been severed or taken from the soil immediately after such severance. The gross value, as hereinafter defined, on all such production shall be computed as of the time when and the place where the same have been severed or taken from the soil immediately after such severance.

"Gross value is defined as being the sales value of the severed and saved product at the first marketable point. For such products as have a posted field or market price at the point of production, the value to be reported shall be its posted field or market price without any deductions except those expenses of hoisting, crushing and loading necessary to place the severed product in marketable form and at a marketable place. For such products

It must be processed or beneficiated before sale the value to be reported shall be the proceeds from the first sale after deducting freight charges subsequent to reference to the point of first sale and the cost of processing or beneficiation.

"The taxpayer hereby is granted an exemption from taxation of two hundred thousand (\$200,000.00) dollars annually, which shall be deducted from the gross value as herein defined before computing the tax.

SCHEDULE OF TAX RATES

On potash	2%
On oil	2%
On natural gas	2%
On copper	1%
On coal, Gold, lead, silver, zinc, timber, molybdenum, manganese, fluorspar, uranium and pyrite	2 1/2%

You will note that the gross value is computed as of the time when and the place where the product has been severed or taken from the soil immediately after severance and the only deductions in the way of costs and expenses are hoisting, crushing and loading necessary to place the severed product in a marketable form and at a marketable place.

It is my opinion therefore that you cannot deduct mining costs or depreciation.

Our statute provides specifically for deduction of any rentals or royalties paid to the State or to the United States. It permits of no other. Therefore I believe any royalty paid to the Berryhills cannot be deducted.

The deductions for loading, for delivery to mill, milling, freight to market, are entirely consistent with the theory and philosophy of our severance tax law and the "gross value" as used in the law. These are all costs and expenses which could occur sometime after actual severance and the tax is based on the value at the time and place of severance. Therefore any costs incurred in connection with the product thereafter is, and should be deductible.

Very truly yours,

E. C. Allen

EC1:S

NEW MEXICO BUREAU OF REVENUE  
SEVERANCE TAX DIVISION  
Santa Fe, New Mexico

PRODUCER'S MONTHLY REPORT

For period beginning \_\_\_\_\_ Ending \_\_\_\_\_

SV1017  
HAYSTACK MOUNTAIN DEVELOPMENT CO.  
314 FIRST ST. SW  
ALBUQUERQUE, N. M.

URANIUM

GROSS VALUE

Tons

Value

\$ \_\_\_\_\_

Differentials:

Loading \_\_\_\_\_ \$ \_\_\_\_\_

Ore Delivery to Mill \_\_\_\_\_ \$ \_\_\_\_\_

Milling \_\_\_\_\_ \$ \_\_\_\_\_

Freight to Market \_\_\_\_\_ \$ \_\_\_\_\_

Total Differentials \_\_\_\_\_ \$ \_\_\_\_\_

Deductions:

Federal Royalty \_\_\_\_\_ \$ \_\_\_\_\_

State Royalty \_\_\_\_\_ \$ \_\_\_\_\_

Taxable Value of Product Severed \_\_\_\_\_ \$ \_\_\_\_\_

Severance Tax based on 1/8 of 1% (.00125) value of  
product severed per check herewith \_\_\_\_\_ \$ \_\_\_\_\_

I hereby certify that the information contained in  
this report, is, to the best of my knowledge and belief, true  
and correct.

\_\_\_\_\_  
Title

Sworn and Subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_

My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public

164-28

Haystack Mountain Development Company - taxes.

8000

Mr T D Evans

Topeka June 29 1954

Mr C H Anderson  
Commissioner of Taxes  
Chicago Illinois

Dear Sir:

Please refer to our letter to you of April 12 with which we furnished list of equipment owned by Haystack Mountain Development Company for purpose of preparation of ad valorem tax return by your department. This was in response to your letter of March 23 to Mr Blair, which was in turn referred to this office.

The preparation of ad valorem tax return brings to mind the question of whether Haystack should also prepare returns and pay the New Mexico mineral severance tax of 1/8 of 1%. It is understood the ad valorem tax return includes a schedule for "net income from productive mines", and the taxability of receipts from production for this purpose seems closely related to the liability for the severance tax. No doubt the opinion of our legal department on this subject should be obtained, however, inasmuch as Haystack has not been considered subject to the severance tax in the past.

In view of the fact that the severance tax return was not listed in your letter of March 23 to Mr Blair as being one to be prepared in your office, will you please advise if your department will handle.

Yours truly

cc - Mr W G Hunt  
Mr T A Blair  
Mr T D Evans



164-28

July 1, 1954

New Mexico Bureau of Revenue  
Severance Tax Division  
Santa Fe, New Mexico

Gentlemen:

Will you please furnish us with a  
supply of "Producer's Monthly Reports", which  
are necessary to make returns to your Division,  
covering Severance Tax payments.

Yours very truly,

T. O. Evans  
Chief Mining Engineer

TOE-c

- MEMORANDUM -

File: 164-28

Grants, New Mexico  
July 1, 1954

Mr. E. C. Iden - Albuquerque

We have been asked by Mr. R. E. Logan, Tax Agent, Amarillo, Texas, to supply him with information on Severance Tax payments in New Mexico.

I am supplying you with a copy entitled "Producer's Monthly Report" which we are obliged to complete for each month. In preparing this statement, I am wondering whether or not we can deduct mining cost and depreciation. The form shows we can deduct loading cost as well as the haulage. As you know, we could not very well load the material without first mining it.

Another question I would like to have you answer is whether or not we can deduct the royalty paid to the Berryhills?

Will you please supply me with your opinion concerning the above questions.

T. O. Evans

Encl.

TOE-c

# The Atchison, Topeka and Santa Fe Railway Company

EARD DEN,  
Solicitor for New Mexico  
BRYAN G. JOHNSON,  
Attorney for New Mexico

NEW MEXICO LAW DEPARTMENT

164-28

Albuquerque, New Mexico,

January 23, 1953

File 17-34

Mr. T. O. Evans  
Mining Engineer  
Grants, New Mexico

Dear Sir:

I sent you copy of my letter of January 14 to the New Mexico Bureau of Revenue with reference to severance tax on uranium.

I now enclose copy of Mr. Chester Hunker's letter of January 19 giving it as his opinion that the State of New Mexico cannot impose the tax on uranium.

Very truly yours,

*E. C. Idem*

ECI:NC

Encl.

CC: Messrs. R. S. Outlaw  
C. B. McClelland

Newmont-Haystack 104(e) Response  
001173

US-NAUM0867931

US-NAUM0867921-00011

COPY

January 19, 1953

Mr. Earl C. Iden  
Iden & Johnson  
Attorneys at Law  
First Nat'l Bank Bldg,  
Albuquerque, New Mexico

Re: Severance Tax on Uranium

Dear Mr. Iden:

This is to acknowledge receipt of your letter of  
January 14, 1953 with reference to the above matter.

Inasmuch as the Atomic Energy Act provides that all  
title to any fissionable materials (such as uranium)  
is the property of the A. E. C., we do not believe that  
the New Mexico Severance tax would apply. The New Mexico  
Severance tax is applied against the owner of the parti-  
cular property at the time it is severed, and as the  
State of New Mexico cannot impose a tax against the  
United States Government or its agencies, the tax on  
uranium would not apply.

Trusting this answers your inquiries, I remain

Sincerely yours,

s/ Chester A. Hunker  
Attorney, Legal Division

164-28

January 14, 1953

File 17-34

New Mexico Bureau of Revenue  
Severance Tax Division  
Santa Fe, New Mexico

Attention: MR. CHESTER HUNKER

Gentlemen:

I have been asked by officials of the Santa Fe Railroad to advise whether they can definitely take the position that the production of uranium is not subject to the New Mexico Severance Tax.

I am personally satisfied about this, but I would appreciate it if you will let me know if the Bureau agrees.

Under Section 76-1301, New Mexico Statutes, 1941, Annotated, a tax is levied on certain natural resources and it is provided that "such taxes shall be paid by the owner or proportionately by the owners thereof at the time of severance, and shall become due and payable monthly as herein provided and shall operate as a first lien on all such products, which lien shall follow such products into the hands of third persons, whether in good or bad faith, and whether same shall be found in a manufactured or unmanufactured state.

Also, under Section 76-1315 of the 1941 Code, it is provided that "the payment of severance taxes levied by this act shall be in addition to and shall not affect the liability of the party or parties so taxed for the payment of all state, county, municipal, district and special taxes levied

- 2 -

upon their real estate and other corporeal property, including the emergency school tax, production and other special taxes. No severance tax shall be levied by any county or other political subdivision of the state." The above is part of Chapter 103 of the Session Laws of 1937.

In 1951 the Legislature amended the Act and included, among other materials, uranium under the schedule of one-eighth of one per cent.

The Atomic Energy Act of August 1, 1946, 60 Stat. 755, 42 U. S. Code Annotated, Section 1801, et seq. at page 812, under Section 1805 (2) provides - "all right, title, and interest within or under the jurisdiction of the United States in or to any fissionable material now or hereafter produced, shall be the property of the Commission, and shall be deemed to be vested in the Commission, by virtue of this Chapter. Any person owning any interest in any fissionable material on August 1, 1946, or owning any interest in any material at the time when such material is after August 1, 1946, determined to be a fissionable material, or who lawfully produces any fissionable material incident to privately financed research or development activities, shall be paid just compensation therefor. The Commission may, by action consistent with the provisions of (4) of this subsection, authorize any such person to retain possession of such fissionable material, but no person shall have any title in or to any fissionable material."

It is clear that all uranium, being fissionable material, is owned by the United States and being so owned is not subject to taxation by the State, either for severance tax or for ad valorem taxes. TCE

I shall appreciate as early advice as possible.

Very truly yours,

E. C. Idem

ECI:NC

CC: Mr. T. O. Evans

File: 164-28

Grants, New Mexico  
January 6, 1963

R. E. C. Iden  
Solicitor for New Mexico  
Albuquerque, New Mexico

Yesterday I talked with Mr. J. B. Knaebel, Manager of Anaconda Copper Company, concerning the completion of Producer's Monthly Report forms required by the Severance Tax Division of the New Mexico Bureau of Revenue (a copy of the form is attached).

Mr. Knaebel informed me we were not required to furnish this information. Furthermore, he questioned the legality of the collection of the Severance Tax on uranium ores. This opinion apparently being based upon legal advice.

On June 6, 1952, Mr. H. W. Davis wrote to you concerning this matter, with copies to Mr. R. G. Rydin, Mr. McClelland and myself. It is evident from Mr. Davis' letter that the Santa Fe will have to pay the Severance Tax and, if this is correct, I presume we are obliged to supply the Severance Tax Division with a monthly report.

However, Mr. Davis also mentioned that the Commissioner of Revenue may, in his discretion, require the first purchaser to pay the tax rather than the owner. In that case, the Anaconda would supply the report and pay the tax and deduct the amount paid from payments due to the Santa Fe.

Mr. Knaebel mentioned you and he had discussed this matter with the Commissioner of Revenue at Santa Fe and that you were familiar with the problem.

For your information, we have produced and delivered to the Anaconda something in excess of one-thousand tons of ore during December 1952 and I will appreciate your advice as to what we should do about reporting to the Severance Tax Division the number of tons produced and the gross value of the ore delivered to Anaconda.

Mr. McClelland recently informed me we are obliged to pay an advalorem tax on value of ore produced. I am not informed about this item. I would appreciate very much if you will enlighten me on this subject, too.

T. O. Evans

Encl.



Uranium Matter

~~147-78~~  
164-28

Chicago, June 6, 1952

Mr. E. C. Iden  
Solicitor for New Mexico  
Albuquerque, New Mexico

Dear Sir:

Enclosed is copy of a letter dated May 20, 1952 from the New Mexico Commissioner of Revenue to Mr. Inman and copy of his reply dated May 26, 1952, copies of which were sent to Mr. Rydin and Mr. Evans.

An examination of the New Mexico mineral severance tax provisions of your statutes indicate that a tax of  $1/8$  of  $1\%$  on the gross value of uranium severed from the soil is required to be paid; and gross value for minerals that must be processed or beneficiated before sale is defined to be the proceeds from the first sale after deducting freight charges to point of sale (Chapter 24, Laws 1951, pp. 32-33, amending Section 76-1302 and 76-1320, 1941 Annotated Statutes).

Section 76-1303 of said Statutes provides that the Commissioner of Revenue may in his discretion require or permit the first purchaser to pay the tax rather than the owner. However, I think it is clear that under the tax clause of the proposed agreement with Anaconda, copy of which Mr. McClelland was to have furnished you, Santa Fe Pacific will have to bear this tax. But as I read your Statutes, the tax cannot be paid until after the uranium ore is sold to Anaconda. Mr. Elair informs me that no uranium ore has been sold since March 1, 1951, the effective date of the Statute levying the tax on uranium. I am further advised, however, that a substantial amount of uranium ore has been severed from the soil, and therefore I suppose Santa Fe Pacific is required to register as a producer of uranium, as requested by the Commissioner of Revenue.

It is my understanding that Mr. McClelland, to whom copy of this letter and its enclosures are being sent, handles matters of this character on behalf of the Santa Fe Pacific, and it would be appreciated if you and he would get together and prepare and file the application for registration, if I am correct in my analysis of your Statutes that such an application is required by law. Also please arrange, if possible, so that collection of the tax may be deferred until such time as uranium ore can be sold.

I am retaining the application for registration form sent to Mr. Inman by the Commissioner of Revenue for our information here. I assume you will have no difficulty in obtaining extra copies, and at all events we will need one or more copies thereof for Santa Fe Pacific files.

Yours truly,

(Signed) H. W. DAVIS

HWD/vh

cc: Mr. Rydin  
Mr. McClelland  
Mr. Evans

C O P Y

State of New Mexico

BUREAU OF REVENUE

Santa Fe

Operation Haystack  
Prewitt, New Mexico

Attention: Jim E. Inman

Gentlemen:

It is our understanding that your company is operating a uranium mine in McKinley County.

As you may know, the Twentieth Legislature levied a severance tax of  $1/8$  of 1% on all uranium mined in this State. This tax became effective March 1, 1951.

As you have not yet registered with this division, we are enclosing a blank form for this purpose. As soon as this is returned, you will be assigned a registration number, and blank forms will be mailed to you for making your monthly returns. These are due in this office on or before the 26th day of the succeeding month.

When making your first report, it will be agreeable with this office for you to make a return covering your entire delinquent period.

Yours very truly,

MANUEL LUJAN  
Commissioner of Revenue

By: (signed)

J. C. Bergere, Director  
Severance Tax Division

LF:cr  
May 20, 1952  
Encl.

C O P Y

166-28  
~~148-28~~

Prewitt, New Mexico

May 26, 1952

State of New Mexico  
Bureau of Revenue  
Santa Fe, New Mexico

Gentlemen: Attention of Mr. J. C. Bergere

Your letter of May 20 regarding the application for registration for mining in McKinley County:

The application blank is being sent along with a copy of this letter to Mr. R. G. Rydin, our Vice President in Chicago, who is handling the operation.

We have not as yet started mining, nor do we know what date we will get started on mining. All of our work has been strictly exploratory. You will probably hear from Mr. Rydin in the very near future with the formal application.

Very truly yours,

J. E. Inman

cc: Mr. R. G. Rydin  
Mr. T. O. Evans

Newmont-Haystack 104(e) Response  
001182

US-NAUM0867940

US-NAUM0867921-00020

XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX

124-28  
~~748-28~~

Prewitt, New Mexico

May 26, 1952

State of New Mexico  
Bureau of Revenue  
Santa Fe, New Mexico

Gentlemen: Attention of Mr. J. C. Bergere

Your letter of May 20 regarding the application for registration for mining in McKinley County:

The application blank is being sent along with a copy of this letter to Mr. R. G. Rydin, our Vice President in Chicago, who is handling the operation.

We have not as yet started mining, nor do we know what date we will get started on mining. All of our work has been strictly exploratory. You will probably hear from Mr. Rydin in the very near future with the formal application.

Very truly yours,

J. E. Inman

cc → Mr. R. G. Rydin  
Mr. T. O. Evans

C O P Y

State of New Mexico

BUREAU OF REVENUE

Santa Fe

Operation Haystack  
Prewitt, New Mexico

Attention: Jim E. Irman

Gentlemen:

It is our understanding that your company is operating a uranium mine in McKinley County.

As you may know, the Twentieth Legislature levied a severance tax of  $1/8$  of 1% on all uranium mined in this State. This tax became effective March 1, 1951.

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When making your first report, it will be agreeable with this office for you to make a return covering your entire delinquent period.

Yours very truly,

MANUEL LUJAN  
Commissioner of Revenue

By: (signed)

J. C. Bergere, Director  
Severance Tax Division

LF:cr  
May 20, 1952  
Encl.

Newmont-Haystack 104(e) Response  
001184

US-NAUM0867942

US-NAUM0867921-00022